

Application No. 10/670,761
Reply dated May 3, 2005
Response to Office Action dated December 3, 2004

REMARKS/ARGUMENTS

Description of amendments

Claims 1, 2, 5, 7, 8, 14, and 15 are now pending and under examination. Applicant has amended claim 1, added claims 14 and 15, and cancelled claims 3, 4, 6, and 9-13. No new matter has been added.

The amendments to claim 1 and the new claims are supported by the application as originally filed (see, for example, paragraphs [0027] to [0029] and Figures 1-4).

Rejection under 35 U.S.C. §103(a)

Claims 1-8 were rejected under 35 U.S.C. §103(a) as being unpatentable over Tejima (U.S. Patent 4,669,532) in view of Frost (U.S. Patent 3,743,011). The rejection of claims 3, 4, and 6 is rendered moot by their cancellation. For the following reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection with respect to claims 1, 2, 5, 7, and 8, as amended.

Tejima discloses a heat exchanger with a bimetal for controlling the volumetric flow. The bimetal is spirally wound and has a valve-like end portion. The complete bimetal valve is attached by a complicated mounting to the condenser. The bimetal is relatively large, so that space is needed accommodate the bimetal. Moreover, making the bimetal as a spiral is complicated and expensive, since a corresponding amount of the bimetal is necessary. The bimetal valve is arranged on the condenser after the condenser plates in the direction of flow. Thus the oil will heat the bimetal only after flowing through the condenser, so that the temperature of the bimetal is already cooled down. This arrangement is unsuitable for achieving the objects of the present invention.

Amended claim 1 recites a *plate-shaped* switching element that opens and closes an opening *in the filter housing* and connects the inlet of the heat exchanger directly to the unfiltered liquid area of the liquid filter. Thus, in contrast to Tejima, the bimetallic valve is not directly connected to the condenser. This construction of the bimetal valve is economical and requires minimum space. Because this limitation is neither disclosed nor suggested by the cited art, amended claim 1 cannot be rendered obvious.

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The dependent claims are also patentable. For example, the cited art teaches or suggests neither the inlet and bypass arrangements of claims 2 and 5 nor the baffle plate of claim 7.

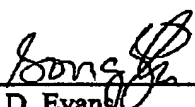
The new claims (i.e. claims 14 and 15) are patentable because the cited art does not teach or suggest the construction and operation of the switching element as specified in the new claims.

In light of the foregoing remarks, this application is considered to be in condition for allowance, and early passage of this case to issue is respectfully requested. If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #037141.52761US).

Respectfully submitted,

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